

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman;
Tony L. Hammond; and
Nanci E. Langley

Akron–East Station
Akron, Ohio

Docket No. A2011-16

ORDER DENYING EXTENSION

(Issued August 19, 2011)

In Order No. 752, the Commission modified the procedural schedule in this proceeding extending the deadline for parties to request oral argument to August 8, 2011.¹ On August 8, 2011, the City of Akron, Ohio (Intervenor) filed a motion seeking to extend the deadline for requesting oral argument.² Under the Commission's rules, oral argument will be held when a party makes a showing that, due to unusual circumstances, oral argument is necessary in addition to written filings. See 39 CFR 3001.116. The Postal Service opposes the Motion.³

¹ Order Granting Extension and Modifying Procedural Schedule, June 23, 2011 (Order No. 752).

² City of Akron, Ohio's Motion to Extend the Deadline for City of Akron to File Motion Requesting Oral Argument, August 8, 2011 (Motion).

³ Opposition of United States Postal Service to City of Akron, Ohio's Motion to Extend the Deadline for City of Akron to File Motion to Extend the Deadline for City of Akron to File Motion Requesting Oral Argument, August 15, 2011 (Opposition).

Intervenor's Motion. On July 27, 2011, the Postal Service filed a request with the Commission for an advisory opinion regarding the Retail Access Optimization Initiative for examining the continuation of service at approximately 3,650 postal retail locations.⁴ Intervenor cites the presence of the South Arlington Station on the list of postal retail locations being examined as the basis for the Motion. Motion at 1. Customers of the East Akron Station were informed that after the East Akron Station closed, post office box and retail services would be available at the South Arlington Station. *Id.* at 1-2. Intervenor argues that the Postal Service offered the availability of service at the South Arlington Station as a justification for the closure of the East Akron Station. *Id.* at 2. Intervenor contends that in light of the South Arlington Station being under consideration for possible closure, additional time is necessary to review the Postal Service's Administrative Record and cite inconsistencies that exist in support of its request for oral argument. *Id.*

Postal Service's Opposition. The Postal Service opposes the Motion arguing that Intervenor should not be granted additional time to file a request for oral argument. The Postal Service contends that Intervenor had sufficient time to file a request for oral argument and that the consideration of the South Arlington Station for possible closure has not impacted its ability to develop a meaningful motion. Opposition at 2. The Postal Service adds that the list was filed on July 27, 2011, which was more than 9 days before the deadline for Intervenor's reply brief and 12 days before the deadline to request oral argument. *Id.* The Postal Service notes that section 404(d) limits the Commission's review of closings to the administrative record. *Id.* at 3. The Postal Service argues that if the Commission were to grant the Motion, the list of retail locations being examined for continuation of service would fall outside of the Administrative Record. *Id.* Additionally, initiation of a feasibility study for South Arlington Station does not mean that a full discontinuance study will be conducted or that South Arlington Station will be closed. *Id.* at 3-4.

⁴ Docket No. N2011-1, Request of the United States Postal Service for an Advisory Opinion on Changes in the Nature of Postal Services, July 27, 2011 (Request).

Commission analysis. As the Postal Service indicates, Intervenor had sufficient time to review the Administrative Record and develop a request for oral argument. The record reflects that Intervenor had an opportunity to express these concerns in its reply brief. Intervenor's Reply Brief, however, incorporates and renews the arguments made in its Notice of Intervention and Initial Brief and requests that the Commission remand the determination for further consideration.⁵ Accordingly, the Motion to extend the deadline to file a request for oral argument is denied.

The Commission, however, will allow both parties to file additional statements regarding the relevance and impact on this appeals proceeding of the Postal Service's examination of the South Arlington Station for continuation of service. Statements are due on or before August 25, 2011.

It is ordered:

1. The City of Akron, Ohio's Motion to Extend Deadline for City of Akron to File Motion Requesting Oral Argument, filed August 8, 2011, is denied.
2. Both parties may file additional statements regarding the relevance and impact of the Postal Service's examination of the South Arlington Station on or before August 26, 2011.

By the Commission.

Shoshana M. Grove
Secretary

⁵ See Notice of Intervention, City of Akron, Ohio, June 10, 2011 (Notice of Intervention); City of Akron, Ohio's Initial Brief, June 12, 2011 (Initial Brief); City of Akron, Reply Brief, August 5, 2011 (Reply Brief).